

2023 -- S 1051

LC002507

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

Introduced By: Senator David P. Tikoian

Date Introduced: May 19, 2023

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-24-46.1 of the General Laws in Chapter 45-24 entitled "Zoning  
2 Ordinances" is hereby amended to read as follows:

3 **45-24-46.1. Inclusionary zoning.**

4 (a) A zoning ordinance requiring the inclusion of affordable housing as part of a  
5 development shall provide that the housing will be affordable housing, as defined in § 42-128-  
6 8.1(d)(1); that the affordable housing will constitute not less than ten percent (10%) of the total  
7 units in the development; and that the units will remain affordable for a period of not less than  
8 thirty-years (30) from initial occupancy enforced through a land lease and/or deed restriction  
9 enforceable by the municipality and the state of Rhode Island.

10 (b) A zoning ordinance that includes inclusionary zoning may provide that the affordable  
11 housing must be built on-site or utilize one or more alternative methods of production, including,  
12 but not limited to, off-site construction or rehabilitation, donation of land suitable for development  
13 of the required affordable units, and/or the payment of a fee in lieu of the construction or provision  
14 of affordable housing units. For all projects subject to inclusionary zoning, a density ~~bonuses and~~  
15 ~~other~~ bonus of at least a thirty percent (30%) increase in the allowed dwelling units per acre (DU/A)  
16 as well as other incentives and municipal government subsidies as defined in § 45-53-3 shall be  
17 established by the community and shall apply to offset differential costs of below-market units.  
18 The allowed dwelling units per acre shall be calculated based upon the total lot area of the property  
19 and the minimum lot size requirements of the underlying zoning district in which the property is

1 [located.](#)

2 (c) This fee in lieu of the construction or provision of affordable housing shall be the choice  
3 of the developer or builder applied on a per-unit basis and may be used for new developments,  
4 purchasing property and/or homes, rehabilitating properties, or any other manner that creates  
5 additional low-or-moderate income housing as defined in § 45-53-3(9).

6 (1) For affordable single-family homes and condominium units, the per-unit fee shall be  
7 the difference between the maximum affordable sales price for a family of four (4) earning eighty  
8 percent (80%) of the area median income as determined annually by the U.S. Department of  
9 Housing and Urban Development and the average cost of developing a single unit of affordable  
10 housing. The average cost of developing a single unit of affordable housing shall be determined  
11 annually based on the average, per-unit development cost of affordable homes financed by Rhode  
12 Island housing [and mortgage finance corporation \(RIHMFC\)](#) over the previous three (3) years,  
13 excluding existing units that received preservation financing.

14 (2) Notwithstanding subsection (c)(1) of this section, in no case shall the per-unit fee for  
15 affordable single family homes and condominium units be less than forty thousand dollars  
16 (\$40,000).

17 (d) The municipality shall deposit all in-lieu payments into restricted accounts that shall be  
18 allocated and spent only for the creation and development of affordable housing within the  
19 municipality serving individuals or families at or below eighty percent (80%) of the area median  
20 income. The municipality shall maintain a local affordable housing board to oversee the funds in  
21 the restricted accounts and shall allocate the funds within two (2) years. The municipality shall  
22 include in the housing element of their local comprehensive plan, ~~if applicable,~~ [and shall pass by](#)  
23 [ordinance](#), the process it will use to allocate the funds.

24 (e) ~~As an alternative to the provisions of subsection (d), the municipality may elect to~~  
25 ~~transfer in-lieu payments promptly upon receipt or within the two-year (2) period after receipt~~ [A](#)  
26 [municipality shall transfer all fee-in-lieu payments which are not allocated within two \(2\) years of](#)  
27 [collection, including funds held as of July 1, 2023](#) to the ~~housing resources commission or Rhode~~  
28 ~~Island housing~~ [Rhode Island housing and mortgage finance corporation \(RIHMFC\)](#) for the purpose  
29 of developing affordable housing within that community.

30 (f) ~~Rhode Island housing~~ [Both the municipalities and Rhode Island housing and mortgage](#)  
31 [finance corporation \(RIHMFC\)](#) shall report [annually](#) to the general assembly, [the secretary of](#)  
32 [housing](#) and the housing resources commission the amount of fees in lieu collected by community;  
33 the projects that were provided funding with the fees, the dollar amounts allocated to the projects  
34 and the number of units created.

1 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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1           This act would increase the amount of allowable units per acre for all projects subject to  
2 inclusionary zoning as well as other incentives and subsidies to offset differential costs of below-  
3 market units.

4           This act would take effect upon passage.

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